

**Notice of Allowability**

Application No.

10/088,334

Examiner

Donald L. Storm

Applicant(s)

VANDALI ET AL.

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to correspondence filed September 15, 2006 through October 2, 2006.
2. ☒ The allowed claim(s) is/are 11-48.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application
- ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
- ☒ Examiner's Amendment/Comment
- ☐ Examiner's Statement of Reasons for Allowance
- ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to the Applicant, an amendment may be filed as provided by 37 CFR § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Michael G. Verga, Attorney of Record, on November 15, 2006.

The application has been amended as follows:

#### IN THE CLAIMS:

Before claim 11, insert as a separate paragraph --WHAT IS CLAIMED IS:--

In claim 11, line beginning *emphasize*, change "short" to --short-duration--.

In claim 11, line beginning *relative*, change "envelop." to --envelope.--.

In claim 12, final line, after "channels", insert --- (period).

In claim 16, line 1, change "function of the" to --function of a--.

In claim 16, line 2, change "in" to --for--.

In claim 21, line 4, delete "in the profile".

In claim 26, line beginning *said short*, change "short" to --short-duration--.

In claim 26, line beginning *differences*, change "envelop;" to --envelope;--.

In claim 26, line beginning *an implanted*, change "cochlear" to --cochlea--.

In claim 27, final line, after "channels", insert --- (period).

In claim 31, line 1, change "function of the" to --function of a--.

In claim 36, line 4, delete "in the profile".

In claim 41, line beginning *means for emphasizing*, change "short" to --short-duration--.

In claim 41, final line, change "envelop." to --envelope.--.

In claim 42, line 2, change "plurality" to --multitude--.

In claim 45, line beginning *emphasizing*, change "short" to --short-duration--.

In claim 45, final line, change "envelops." to --envelopes.--.

In claim 46, line 1, change "plurality" to --multitude--.

In claim 47, line 4, change "channel" to --channels--.

In claim 48, line 3, change "short" to --short-duration--.

### ***Allowable Subject Matter***

2. Claims 11-15, 16-20, 21, 22, 23-24, 25, 26-30, 31-35, 36, 37, 38-39, 40, and 41-48 are allowed. The claims have been renumbered for printing to be claims 1-5, 7-11, 13, 12, 14-15, 6, 16-20, 22-26, 28, 27, 29-30, 21, and 31-38.

3. The following is a statement of reasons for the indication of allowable subject matter:

The allowable subject matter of each independent claim resides in the whole structure and interaction expressed by the combination of all limitations compared to the prior art of record, particularly to detect and emphasize short-duration amplitude transitions, with the emphasis based on relative differences in amplitude, particularly for detecting and emphasizing for each amplitude envelope for frequency channels of sound. No particular reference provides relevant, objective evidence to make the whole structure and interaction of the claimed device, implant, and method obvious by changing the closest prior art of record.

### ***Drawings***

4. The proposed substitute drawings (4 sheet(s), received October 2, 2006) are present and are now the Figs. 1-4 of record. These drawing sheets are substantively acceptable to the Examiner.

***Response to Arguments***

5. The prior Office action, mailed March 15, 2006, objects to the drawings, specification, and claims, and rejects claims under 35 USC § 102 and § 103, citing Yoshizumi and others. The Applicant's arguments and changes in RESPONSE AND AMENDMENT UNDER 37 C.F.R. § 1.111, filed October 2, 2006, have been fully considered with the following results.

6. With respect to objection to the drawings, the changes entered by substitute drawings correct the drawing informalities. Accordingly, the objection is removed and the requirement for substitute drawings is withdrawn.

7. With respect to objection to the specification as lacking a brief description of a figure, the changes entered by amendment provide the brief description. Accordingly, the objection is removed.

8. With respect to objection to those claims needing clarification, the objections no longer apply because the claims have been canceled.

9. With respect to rejections of claims under 35 USC § 102 and § 103, the rejections no longer apply because the claims have been canceled.

***Conclusion***

\*\*\*\*\* **IMPORTANT NOTICE** \*\*\*\*\*


The Examiner handling this application, who was assigned to Art Unit 2654, is assigned to **DIVISION 2626** as a result of consolidation in Technology Center 2600. Please include the new

Division in the caption or heading of any communication. Your cooperation in this matter will assist in the timely processing of the submission and is appreciated by the Office.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L. Storm, of Division 2626, whose telephone number is (571) 272-7614. The examiner can normally be reached on weekdays between 7:00 AM and 3:30 PM Eastern Time. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571) 272-7602.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Inquiries regarding the status of submissions relating to an application or questions on the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at: [ebc@uspto.gov](mailto:ebc@uspto.gov). For general information about the PAIR system, see <http://pair-direct.uspto.gov>. If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

November 17, 2006

  
Donald L. Storm  
Examiner, Division 2626